

NEW YORK HERALD

BROADWAY AND ANN STREET.

JAMES GORDON BENNETT, PROPRIETOR.

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The doctors of Bellevue Hospital are conducting the largest skin grafting operation ever performed in this city.

The House Finance Committee have been unable to agree on the silver bill, and an effort will be made in the House to take it out of their hands.

John F. Davenport has sent another Force bill to Mr. Hoar to introduce in the Senate.

Republicans in the State Senate contemplate asking Governor Hill, by resolution, to go to his new sphere of duty in Washington on March 4.

Ohio republicans want President Harrison to appoint ex-Governor Foster Secretary of the Treasury.

The Canadian government will fight the coming Parliamentary campaign on a proposal for the renewal of the trade treaty between Canada and the United States adopted in 1854, with certain modifications.

Many fishermen and ice cutters were swept out to Saginaw Bay, near Bay City, Mich., on ice floes, and it is feared that twenty or thirty were drowned.

Never print a paid advertisement as news matter. Let every advertisement appear as an advertisement—no sailing under false colors.—Charles A. Dana's Address to the Wisconsin Editorial Association, Milwaukee, July 24, 1888.

A STORY IS TOLD of an advertiser who presented himself at the New York Herald counter with a three thousand dollar roll as an offer for a half column advertisement with a good sized accompanying text. The "ad." was refused without even consulting Mr. Howland. There is a standing rule in the Herald office to never insert advertising cuts.—Exchange.

THE EXPENDITURES FOR PENSIONS for the year ending June 30, as now officially stated, amounted to \$109,357,534. In the previous year we paid \$87,644,779.11, while in the year before that we paid \$80,238,508.77. The cost of the German army, it may be interesting to note, is for this year estimated at \$1,726,293. Besides our pensions our army costs \$20,000,000.

Political Powers.

No newspaper in the land can be more tenacious than the Herald of the right and duty of the people to confine the judicial power within the limits defined for it by the federal constitution. But that constitution declares—

The judicial power shall extend to all cases in law and equity arising under this constitution, the laws of the United States and treaties made or which shall be made under their authority; to all cases of admiralty and maritime jurisdiction.

A "case" is a controversy between parties, regularly begun, and taking a shape for judicial action. It "arises" under the constitution, laws, treaties whenever its correct decision depends on the interpretation and meaning of either. The judicial power extends to all such "cases" thus arising, but not necessarily to all questions arising under the constitution, laws, treaties. The judicial department cannot control either the Congress or the Executive excepting by the agency of such "cases." The Supreme Court has itself wisely circumscribed its own boundaries in a series of well known decisions. Where the law—Congress and the President—has, for example, claimed dominion over land or water, the Court decrees that a political affair, and will conform its decisions to what the law has declared. But if that law is ambiguous and a "case" arises out of the ambiguity, the judicial power extends to it. Such may be the Sayward case, now that the petition has been received, for Congress has not yet distinctly said that the Territory of Alaska shall cover all the waters of Behring Sea east of the treaty meridian. That ambiguity in the law of 1868 has made the "case" of the Sayward.

When one reads the shrieking utterances in regard to the Supreme Court by individuals in and out of Congress and by newspapers since the Sayward case came to the front one wonders whether some of this generation of men realize what the Supreme Court is, what it has done for our liberties and how great a part of all our really serviceable law is judge-made law. It was the Supreme Court which, under Marshall, declared that where, in its opinion, a law of Congress is in conflict with the constitution the former must give way, and that neither the legislative nor the judicial power of one or all of the States of the Union can interfere with the constitutional operations of the federal government. The law of nations is so far a part of our federal constitution that no law of Congress will, we are confident, ever be construed so as to violate international law if there is any other possible construction. When there is ambiguity in the constitution, statutes or treaties, and a "case" comes properly before the Court involving life, liberty or property, the Court must decide the "case," or there is no Court. It must decide it even if the Congress and the President—the givers of its daily bread—be clamoring on one side, and an unknown or unpopular alien, is on the other side, or else there is no judge! It must not see either parties or persons, nameless or odious, or governments. It can only watch "the trepidations of the balance!"

A recent extradition case in the Supreme Court is a pertinent illustration.

President Grant denied that, under the extradition treaty of 1842 with England, she could demand of the United States a stipulation that a criminal surrendered by England should not be tried for any other than the treaty offence. He insisted that, under the treaty and our laws, the offender, acquitted on the offence of surrender, could be tried for another offence. On discussion England yielded. But a criminal extradited for murder on the high seas and acquitted was indicted on the same facts for cruel punishment of the same person. The "case" went to the Supreme Court. There it was argued that the turning point in the case was political and diplomatic, and, therefore, the Court must follow the President. The Department of State had, by the note of Mr. Fish of May 22, 1876, declared that this government held to the opinion that it has the power and right, after trying the accused for the offence on which he was extradited, to try him for another offence if acquitted on the first trial. The question as between judicial and political power was, in one sense, much the same as that presented by Mr. Blaine's contentions now. One or two members of the Court doubted whether the conclusions of the diplomacy of both governments ought or ought not to be followed, but finally the Court adjudged that, under

the treaty and the statutes, the accused could not be tried for another offence.

What can be the explanation of the uproar and protest by Mr. Blaine when the Supreme Court was quietly asked the other day to receive the petition in the Sayward case? Why did he carry on as he did and inspire others to carry on as they did when he saw that the Court might consider, as it had time and again considered, and might define for itself, as it had so often done, the boundaries of the judicial power? Why such unseemly distrust of our great tribunal?

May not this be the explanation?

On February 7, 1890, Sir Julian Pauncefote wrote to Lord Salisbury that Mr. Blaine told the former that "he would never admit that his government (the United States) were justly liable to pay any damages at all" for the Behring Sea seizures.

Is not the explanation to be found in that pride of opinion which many a time has driven nations into war? It is in the present case the infallibility, as a lawyer, of Mr. Blaine, who is not a lawyer, that should, in his own estimation, be vindicated by preventing the intervention of the judicial power! That peril is now overpassed!

Is the Judiciary Commission a Failure?

One of the most noteworthy signs in legal circles is the criticisms that are looming up on the report of the commission appointed to revise the judiciary article of the State constitution.

The chief purpose of creating this commission was to settle upon the best plan for relieving the Court of Appeals at Albany. For years that tribunal has been unable to cope with the business that has pressed upon it. Every year the number of cases appealed to it has been greater than the number decided. The result has been a delay of justice which has called forth loud complaints.

To dispose of this accumulation of cases it was found necessary some years ago to create a commission and more recently a second division, which is still in existence. These, however, were but temporary expedients which could not give permanent relief or satisfaction.

The Constitutional Commission reported against any change in the size or organization of the Court of Appeals, but recommended that the needed relief be secured by curtailing the number of appeals to Albany—in other words, by preventing appeals in a large number of cases wherein they are now allowed.

Lawyers of prominence do not hesitate to criticize this denial of the right of appeal, and, moreover, declare that it will not afford the permanent relief needed. They predict that in a few years if the plan is adopted the Court will again find itself unable to keep up with its business and consequently the evils of delay will again reappear. The only thorough remedy, it is claimed, is to enlarge the court and empower it to sit as one tribunal or in two or more divisions as circumstances may require.

This raises a timely and serious question. The report of the judiciary commission is now before the Legislature. If it is not approved by that body the commission becomes a failure—its labors fruitless. If the recommendations are adopted by the Legislature, submitted to the people for ratification and by them ratified the question will still remain whether anything more than temporary relief has been secured.

It is unfortunate that the work of this important commission should result in an outlook so doubtful and unsatisfactory.

The Newport in the Hatteras Gale.

The Pacific Mail steamship Newport, which sailed for Colon on Saturday, the 10th ult., had a fearful cyclonic experience about sixty miles north of Cape Hatteras the day after leaving this port. On Friday, the 9th ult., the Herald weather forecasts said:—"South bound steamers now leaving New York will be exposed to dangerous easterly winds and snow squalls north of Hatteras," and the next morning the Herald's warning of "heavy weather near and north of Hatteras" was repeated to tropical steamers then about to sail.

Captain Lima, of the Newport, reports that on the night of Sunday, the 11th ult., a very heavy south-southeast gale, blowing at the rate of seventy miles an hour, struck his ship, the sea sweeping her decks, flooding her companion ways and doing considerable damage. The experience of the Newport should teach steamship captains on the approach of Gulf Stream gales to edge away from the coast and to head the ship to the eastward. By so doing time would often be saved and great risks avoided.

Lithographers and Copyright.

The lithographers of the country complain that the pending Copyright bill denies to them the protection which it extends to book printers and publishers, and they ask that the unjust discrimination be remedied by amendment.

As the bill now stands it gives copyright to the foreign author, inventor, designer or proprietor of a map, chart, musical composition, engraving, cut, print, photograph, chromo or lithograph. It then provides that books "shall be printed from type set within the limits of the United States or from plates made therefrom." No such requirement is made in the case of the other articles above enumerated.

The effect of this is that while foreign books to be entitled to copyright must be printed from type set or plates made in this country, maps, charts, musical compositions, engravings, cuts, prints, photographs, chromos and lithographs, whether appearing as illustrations in a book or published separately, may be printed from plates prepared on the other side. In other words, while the bill protects American composers and publishers, it does not protect American lithographers, plate printers and photographers.

It is urged that the lithographic industry is an important one in this country. By this process maps, charts, musical compositions, engravings, prints and chromos are almost wholly produced. The industry is prosecuted in fifty-eight cities and twenty-seven States. More than seventeen millions of capital are invested in it, and nearly fourteen thousand persons employed in it. There are two hundred and fifty-nine establishments, operating between eleven and twelve hundred lithographic presses. A

large part of this business, it is said, will be transferred to foreign workshops if the pending bill passes in its present form.

The claim of the lithographers would doubtless have received due consideration had it been advanced in season. Its adoption by the Senate now would necessitate a return of the bill to the House, and this in all probability would result in the defeat of the whole measure. The friends of the proposed amendment have only themselves to blame for delaying the presentation of their claim till the last minute, when it cannot be conceded without jeopardizing international copyright. Will they not gain more by not making their demand now, but waiting till after the pending bill has become a law and then ask for its amendment?

The "Cold Wave."

The remnants of Sunday's big North-western "cold wave" gathered yesterday in the rear of the lake cyclone, and will make a descent upon this section. The mercury promises to fall to a minimum of zero to-night in Northern New York and to about 10 or 15 degrees above zero in the Hudson Valley to-morrow morning. But it is not likely that the cold snap will continue to be severe beyond Friday.

PERSONAL INTELLIGENCE.

HERALD WEATHER FORECASTS.—Yesterday's lake storm centre has curved to the St. Lawrence